

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the Application of:

Axelsson

Serial No.: 09/891,379

Filed: June 27, 2001

For: EPG HAVING PIP WINDOW
HISTORY AND SAMPLE VIEW
FUNCTIONALITY

Atty. Docket No.: 004770.01971

Group Art Unit: 2623

Examiner: Usha Raman

Confirmation No.: 2564

REPLY BRIEF

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Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 41.41(a)(1), Appellant submits this Reply Brief to the Board of Patent Appeals and Interferences in response to the Examiner's Answer mailed on December 9, 2008. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

Status of the Claims

Claims 1-21 and 25 were previously cancelled. Claims 22-24 and 26-35 remain in the application. All pending claims (22-24 and 26-35) stand rejected. Applicant is appealing all pending claims (22-24 and 26-35). All claims are shown in the attached appendix.

Grounds of Rejection to be Reviewed on Appeal

The following grounds of rejection are to be reviewed on appeal:

- The pending 35 U.S.C. §103 rejection regarding claims 22-24, 26-28 and 33-35 are rejected under 35 U.S.C. 103 (a) as allegedly being unpatentable over Yuen et al. (WO 97/34414) in view of Van der Vleuten (US Patent 6,460,183).
- The pending 35 U.S.C. §103 rejection regarding claims 29-32 are rejected under 35 U.S.C. 103 (a) as allegedly being unpatentable over Yuen et al. (WO 97/34414) in view of Van der Vleuten (US Patent 6,460,183) and further in view of Ellis et al. (US Patent 5,986,650).

Argument

The Examiner's Answer offers additional explanation and reasoning to justify the ground of rejection from the Final Office Action, and the present Reply Brief merely responds to that explanation. As explained in detail below, Applicants respectfully submit that the arguments set forth in the Examiner's Answer directly contradict the explicit teachings of Van der Vleuton.

As more thoroughly described in pages 20-24 of Applicant's Appeal Brief, Van der Vleuton is directed towards maintaining a history list of channels, such as television channels. As explicitly set forth in Van der Vleuton, not every selected "preset" is stored in the history list. Indeed, as provided in Van der Vleuton:

Other conditions may cause a newly selected preset *not to be stored* in the history list, because it is assumed that these conditions render a preset less likely to be recalled later. For example, the test in the step 202 succeeds if the user operates the zapping means 109 by means of the *up/down means 116* to select a preset which precedes or succeeds the currently selected preset. *If this is the case, the newly selected preset number is not stored in the history list.*

(Col. 4, ll. 46-53, emphasis added). In this regard, Van der Vleuton is directed towards storing only a subset of "presets" that meet certain criteria. Despite this, the Examiner's Answer alleges that any channel that a user passes, even for a split second as they travel the channels, should be included in the "favorite list" of Van der Vleuton. Specifically, the Examiner's Answer alleges that:

It should be further be [sic] noted that when a user selects a particular channel, there is a finite amount [sic] time for which the user is 'tuned' to the channel prior to switching to another channel due to inherent delays in processing signals as well as human processing of actions. ...[W]hen working with the assumption that any channel glanced by the user are [sic] deemed to be of interest to the users, the predetermined time maybe [sic] set to [sic] few seconds or less.

(Examiner's Answer, p. 23). Applicants strongly disagree. As explicitly stated in Van der Vleuton: "[i]t is assumed that a preset which was selected with the zapping means 109, is generally *not of particular interest* to the user." (Col 4, ll. 56 – 58, emphasis added). In this regard, Applicants disagree that any channel viewed for any period of time, such as merely using the zapping means to chronologically traverse the channels to arrive at a desired channel, would

be included in the list. In fact, as explicitly stated in the Summary of the Invention of Van der Vleuton:

In a radio or television receiver according to the invention, signals which are selected by means of the zapping means **are not included** in the history list, unless they have been inspected for said predetermined period of time.

(Col. 2, ll. 29 – 34, emphasis added). Furthermore, as discussed above, Van der Vleuton expressly states that if the channel is selected with the “up/down means,” such as when surfing channels, the channels will not be stored in the history list. Applicants respectfully submit that for this reason alone, the Examiner’s rejections based upon Van der Vleuton should be reversed, and respectfully solicit such action.

Second, since the favorites list explicitly does not store every signal that the user selects by a zapping means (i.e., a remote control), it cannot serve as the list being alleged by the Examiner. Rather, as discussed immediately above, such selections are assumed to “not [be] of particular interest to the user” and thus are “not included in the history list, unless they have been inspected for said predetermined period of time.” Col 4, ll. 56 – 58 and Col. 2, ll. 29 – 34. Thus, the Examiner’s assertion that “Van der Vleuton is relied upon for allowing the user to traverse [the] user’s history” with the list directly contradicts Van der Vleuton’s own teachings.

Third, it appears that the Examiner is alleging that the “third button” of Van der Vleuton serves as the “third display area” as recited in the claims under appeal. Applicants respectfully note that the “third button” of Van der Vleuton is merely a button on a “zapping means” (i.e., a remote control), thus it cannot even suggest or teach a “third display area,” which is also not taught or disclosed anywhere in Yuen. Indeed, as more thoroughly described on pages 21-23 of Applicants’ Appeal Brief, Van der Vleuton expressly teaches away from combining its disclosed history devices with multiple display generation means as recited in the rejected claims and alleged to be taught in Yuen. Specifically, Van der Vleuton states:

It is to be noted that television receivers are known which feature a dedicated button for selecting the previous channel. There are also television receivers which feature **colored buttons** for recalling two previously selected teletext pages which are indicated on the screen in corresponding colors. A drawback of such a feature is that only a very limited number of signals can be accessed and that **disturbing elements are required on the screen.**

(Col. 2, ll. 47 – 54, emphasis added). Thus, Van der Vleuton teaches against using “disturbing elements” on the screen and or otherwise including signals that are selected by a user scrolling through the channels and selecting certain channels by the zapping means.

In response, the Examiner’s Answer attempts to argue that an EPG (as opposed to, for example, a previously selected teletext page) “is not likely constituting ‘disturbing elements’” because the user explicitly invokes the EPG.” (See Examiner’s Answer, p. 23). Applicants respectfully bring the Board’s attention to the above cited passage of Van der Vleuton. As explicitly cited in the passage, the “disturbing elements” (i.e., a previously selected teletext page) are brought up on the screen by the use of colored buttons on a remote control. Indeed, a button is required to be pushed or otherwise activated by a user. Thus, a user invokes the “disturbing elements.” Therefore, contrary to the Examiner’s arguments, when Van der Vleuton teaches away from presenting “disturbing elements” on the screen, it does so in the context of such elements being invoked by a user. For at least this reason, Applicants disagree with the Examiner’s interpretation of Van der Vleuton and, therefore, respectfully request reversal of the Examiner’s rejections.

Fourth, when discussing the only embodiments where anything would be displayed on a screen, Van der Vleuton states that any output would be for “displaying the history list on the television screen, enabling the user to select a preset by picking a preset from the history list, similarly to the widely applied on-screen menus.” (Col. 5, ll.59 – 61, emphasis added). Yuen, one such widely applied on-screen menu cited by the Examiner, does not teach, disclose or suggest the subject matter as evidenced by the Examiner’s previous withdrawal of the 102(b) rejection citing Yuen. Applicants are unaware of any art of record that discloses a widely applied on-screen menu that teaches or even suggests the recited subject matter. In this regard, the Examiner has not provided any. Rather, the Examiner is using a single reference (Van der Vleuton) which merely indicates that “widely applied only on-screen menus” could be implemented. The Examiner, however, never provides any known on-screen menu in the prior art that teaches or suggests the recited elements of the rejected claims. Applicants, therefore, respectfully submit that the Examiner’s rejections utilizing Van der Vleuton does not meet the statutory requirements of §103, and therefore, respectfully request reversal of the rejection.

The above discussion of Van der Vleuton is not intended to replace Applicants' arguments set forth in the Appeal Brief. Rather, Applicants have provided the above discussion to rebut the Examiner's erroneous interpretation of Van der Vleuton set forth in the Examiner's Answer.

CONCLUSION

The rejections contained in the Action of dated December 28, 2007 should be reversed for at least the reasons recited above. Reversal of the rejections is respectfully requested.

Respectfully submitted,
BANNER & WITCOFF, LTD.

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/Shawn P. Gorman/
Shawn P. Gorman
Registration No. 56,197

BANNER & WITCOFF, LTD.
10 South Wacker Drive, Ste. 3000
Chicago, IL 60606-7407
Telephone: 312-463-5000

CLAIMS APPENDIX

1. – 21. (Cancelled)

22. A method comprising:

receiving at least one electronic program guide corresponding to a broadcast system;
generating display of said at least one electronic program guide in a first display area of a display unit associated with an apparatus;

selecting a desired program from said at least one electronic program guide;

controlling said apparatus to set to the selected program;

generating display during browsing of said electronic program guide of the selected program in the second display area of said display unit;

storing parameters identifying said selected program in a list of selected programs; and

generating display of said list of the selected programs stored in the storage means in a third display area of said display unit, wherein said third display area is separate from said first display area.

23. A method as claimed in claim 22, further comprising:

selecting stored parameters identifying a previously selected program;

controlling said apparatus to set to the program identified by the selected parameters; and

generating display of the program identified by the selected parameters in a second display area of said display unit.

24. A method as claimed in claim 22, further comprising:

selecting the program currently being displayed in the second display area of the display unit for full screen display.

25. (Cancelled)

26. A method as claimed in claim 23, further comprising:

inputting stepwise sequential selection of the stored parameters.

27. A method as claimed in claim 22, further comprising:
selecting a program from said list;
controlling said apparatus to set to the program selected; and
generating display of the program selected in the second display area of said display unit.
28. A method as claimed in claim 22, further comprising:
selecting from said list a program currently being displayed in the second display area of the display unit; and
generating full screen display of the selected program on the display unit.
29. A method as claimed in claim 22, further comprising:
activating timer means upon program selection;
controlling said apparatus to tune set to the selected program for a predetermined time;
generating display of the selected program in the second display area of said display unit for the predetermined time;
controlling said apparatus to set to the previously selected program upon elapse of the predetermined time; and
generating display of the previously selected program in the second display area of said display unit upon elapse of the predetermined time.
30. A method as claimed in claim 29, further comprising:
selecting the program being displayed in the second display area of the display unit for the predetermined time; and
generating full screen display of the selected program on the display unit.
31. A method comprising:
receiving at least one electronic program guide corresponding to a broadcast system;
generating display of said at least one electronic program guide in a first display area of a display unit associated with an apparatus;
selecting a desired program from said at least one electronic program guide;

- controlling said apparatus to set to the selected program;
- generating display during browsing of said electronic program guide of the selected program in a second display area of said display unit;
- storing parameters identifying said selected program;
- activating timer means upon additional program selection;
- controlling said apparatus to set to the additionally selected program for a predetermined time;
- generating display of the additionally selected program in the second display area of said display unit for the predetermined time;
- controlling said apparatus to set to the previously selected program upon elapse of the predetermined time; and
- generating display of the previously selected program in the second display area of said display unit upon elapse of the predetermined time; and
- generating display of a list of stored selected programs in a third display area of said display unit.

32. A method as claimed in claim 31, further comprising:

- selecting the program being displayed in the second display area of the display unit for the predetermined time; and
- generating full screen display of the selected program on the display unit.

33. A computer-readable medium having computer-readable instructions that when executed perform the method of:

- receiving at least one electronic program guide corresponding to a broadcast system;
- generating display of said at least one electronic program guide in a first display area of a display unit;
- providing for selection of a desired program from said at least one electronic program guide;
- controlling an associated apparatus to set to the selected program;
- generating display during browsing of the selected program in a second display area of said display unit;

- storing parameters identifying said selected program;
- providing for selection of an additional program from said electronic program guide;
- repeating the controlling, generating and storing steps for each subsequent program selection;
- providing for selection of stored parameters identifying a previously selected program;
- controlling the associated apparatus to set to the program identified by the selected parameters;
- generating display of the program identified by the selected parameters in the second display area of said display unit; and
- generating display of a list of stored selected programs in a third display area of said display unit, wherein said third display area is separate from said first display area.

34. A computer-readable medium having computer-readable instructions that when executed perform the method of:

- receiving at least one electronic program guide corresponding to a broadcast system;
- generating display of said at least one electronic program guide in a first display area of a display unit;
- providing for selection of a desired program from said at least one electronic program guide;
- controlling an associated apparatus to tune set to the selected program;
- generating display during browsing of said electronic program guide of the selected program in the second display area of said display unit;
- storing parameters identifying said selected program in a list of selected programs;
- providing for selection of an additional program from said electronic program guide;
- repeating the controlling, generating and storing steps for each subsequent program selection;
- providing for selection of stored parameters identifying a previously selected program;
- controlling the associated apparatus to set to the program identified by the selected parameters;
- generating display of the program identified by the selected parameters in the second display area of said display unit; and

generating display of a list of stored selected programs in a third display area of said display unit, wherein said third display area is separate from said first display area.

35. An apparatus, comprising:

a receiver configured to receive at least one electronic program guide corresponding to a broadcast system;

a display unit configured to generate display of said at least one electronic program guide in a first display area of said display unit;

a control unit configured to select a desired program from said at least one electronic program guide;

a tuner configured to control said apparatus to set to the selected program;

a memory configured to generate display during browsing of said electronic program guide of the selected program in a second display area of said display unit;

a memory configured to store parameters identifying said selected program; and wherein additional program selections causes setting said apparatus to said selected program and display of the additionally selected programs in the second display area and addition of parameters identifying the additionally selected programs to a list of selected programs stored in the storage means;

the display unit further configured to generate display of a list of the selected programs stored in the storage means in a third display area of said display unit, wherein said third display area is separate from said first display area; and

the control unit further configured to allow selection of a program from said list, wherein said selection causes to setting and display of the selected program in the second display area of the display unit.